

certificate filed pursuant to paragraph (d)(5) of this section that a shorter term specified in the lease is not less than two-thirds of the expected useful life of the facility; and

(v) The rent reserved under the lease shall not include any amount based, directly or indirectly, on revenues or income of the public utility company, or any part thereof.

Paragraphs (d)(1)(iii) and (iv) of this section shall not apply to a lease executed before, or within 30 days after, the effective date of this section, if the certificate required by paragraph (d)(5) of this section is filed within 60 days after such effective date.

(2) Paragraph (d)(1) of this section shall cease to be applicable in the event of termination of the lessee's right to possession or use of the facility during its term, unless within 90 days of the date of termination, and subject to such prior or subsequent regulatory and other approvals as by law may be required, such company, as defined in this section, negotiates a new lease or an operating agreement at a fixed rental.

(3) A public utility company shall not cease to be such by reason of a lease, directly or indirectly, of part or all of its facilities to any associate company or to any entity, whether or not a company, as defined in section 2(a)(2) of the Act.

(4) Except to the extent provided in paragraphs (d)(1) and (6) of this section, this section shall not relieve any company from such other provisions of the Act, and rules and regulations promulgated thereunder, as may be applicable.

(5) Any company specified in paragraph (d)(1) of this section shall file, or join in the filing of, a certificate on a form prescribed by the Commission, as to each lease within 30 days of its execution. Upon any transfer of legal or beneficial ownership, such new owner shall file an appropriate amendment within 30 days of such transfer. If the lease is amended in a manner which would alter any item of the certificate, or if the facility ceases, for any reasons, to be subject to the lease, the holder of legal title to the facility shall file an appropriate amendment within 30 days of the event.

(6) A company shall not be deemed to be an electric utility company by reason of ownership of any interest in nuclear fuel and facilities incident to its use, if the operation and use thereof is vested by lease or contract in one or more public utility companies, unless the consideration paid by a public utility company for the use of such fuel and facilities, or of the heat or energy produced thereby, includes an amount based, directly or indirectly, on the revenue or income of the public utility company or any part thereof. Any such company shall file, or join in the filing of, the certificates specified in paragraph (d)(5) of this section. A certificate with respect to a lease or contract executed prior to, or within 30 days after, the effective date of this section shall be filed within 60 days after such effective date.

(7) The provisions of paragraphs (d)(1) and (5) of this section, and the filing requirements of paragraph (d)(6) of this section shall not apply if the facilities therein specified are in possession of and operated by one or more governmental bodies or instrumentalities thereof specified in section 2(c) of the Act.

[Rule U, 6 FR 2015, Apr. 19, 1941, as amended at 7 FR 3423, May 8, 1942; 21 FR 5438, July 20, 1956; 32 FR 13487, Sept. 27, 1967; 38 FR 16998, June 28, 1973; 59 FR 21927, Apr. 28, 1994]

§ 250.8 Exemption of subsidiaries subject to jurisdiction of Interstate Commerce Commission.

Any subsidiary company of a registered holding company, which subsidiary is subject to the jurisdiction of the Interstate Commerce Commission but is not an electric or gas utility company or a holding company, shall be exempt from all the provisions of the act and rules thereunder, with respect to any transaction which is approved by the Interstate Commerce Commission, except that the exemption from section 9(a) (49 Stat. 817; 15 U.S.C. 79i) provided by this rule shall not be applicable to any acquisition of securities of any electric or gas utility company or holding company or to any acquisition by which such subsidiary will become a public utility or holding company.